



# Indiana Court Times

Supreme Court, Division of State Court Administration  
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## Live From Clay County: Clay County Launches User Testing of New Indiana Case Management System

*The vision of a 21<sup>st</sup> Century case management system (CMS), with information-sharing capabilities for all counties and users of judicial information, became a reality on June 2, 2004, when Clay County officially began the first user-acceptance testing of the Indiana CMS.*

Gathered at the courthouse for the kickoff were Chief Justice Shepard, Judicial Technology Automation Commission Chair Justice Frank Sullivan, JTAC member and Court of Appeals Judge Paul Mathias, Clay County judges Ernest Yelton and Blaine Akers, Clay County Clerk Mary Brown, and Clay County commissioners, law enforcement, and other county officials. Also present were representatives of Computer Associates, Inc., (CA) the worldwide computer company developing the Indiana CMS, and staff from JTAC and the Division of State Court Administration.

The Supreme Court earlier selected CA to design and install a statewide computerized case management system. As part of its contract, CA will customize its existing court case management system to meet Indiana requirements and needs, and assist JTAC staff in implementing the system in all Indiana courts.

The Clay County courts, which previously had no computer case management capability, will be testing

the first release of the CMS. Clay County is the first of four counties where county workers will begin testing the new CMS with actual data in a phase known as User-Acceptance Testing. Marion, Morgan and Huntington Counties will be the first pilot counties in which the full CMS will be deployed.

The new CMS that will be tested is one of many projects being guided by JTAC.

Using the CMS, citizens and lawyers will be able to check the status of cases over the Internet, courts will be able to transmit electronically orders suspending (or reinstating) drivers licenses to the BMV, the state will have an accurate

electronic registry of all domestic violence protective orders issued by all Indiana courts, a judge facing a criminal defendant will be able to determine immediately whether additional criminal charges are pending in Indiana, and judges, clerks, prosecutors, lawyers, and their staffs will be able to process electronically countless transactions now laboriously performed by hand.



Judges Blaine Akers, Ernest Yelton, Randall Shepard, Frank Sullivan, and Paul Mathias  
Photo compliments of Daryl Andrews, Clay County Commissioner

## Judiciary Launches Online Child Support Calculators

***In a highly collaborative effort, the Indiana Supreme Court has created three new electronic tools that will make calculating child support obligations easier and faster. "These tools will assist judges, attorneys, and citizens around the state make accurate calculations of child support in domestic relations cases that follow the Indiana Child Support Guidelines," Chief Justice Shepard said.***

These three calculators, which generate the required child support forms, include:

- (1) an online, interactive step-by-step calculator complete with instructions, definitions, and references to the Guidelines;
- (2) an online, interactive Practitioners' Calculator specifically designed for members of the justice community with experience calculating child support; and
- (3) a downloadable calculator for MicroSoft Excel for use on computers without an internet connection by members of the justice community with experience calculating child support.

The calculators are the product of a collaboration between the Division of State Court Administration, the Indiana Judicial Center, the Judicial Conference of the Indiana Domestic Relations Committee, the Indiana Supreme Court Judicial Technology and Automation Committee (JTAC), and the Marion Superior Court. Technical development of the online calculators was completed by eGov Strategies of Indianapolis, a private company offering website strategies, processes, and internet-based technologies to enable online access to government and nonprofit information. JTAC staff members completed the technical development of the downloadable calculator.

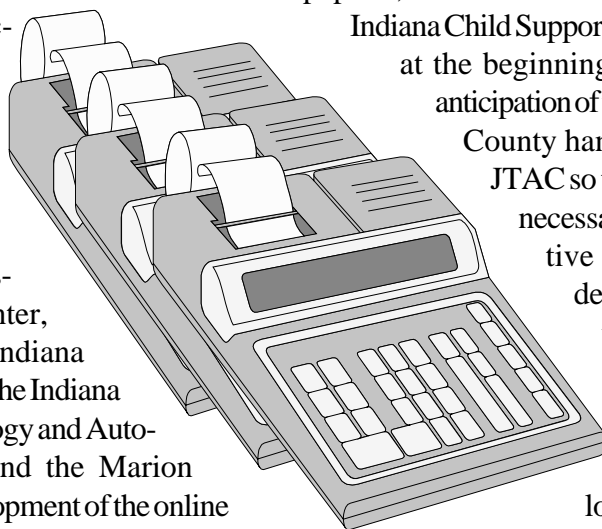
"The greatest benefit of these calculators is their ease of use," said St. Joseph Court Judge Michael Scopelitis, who chairs the Domestic Relations Committee. "Not only do the calculators simplify the process of determining support obligations in compliance with the Child Support Guidelines, but using each calculator should be intuitive for their respective audiences."

The idea for an online child support calculator originated when the Marion Superior Court initially contracted with eGov Strategies to develop an online calculator for its website. That calculator was widely popular, but became outdated when amendments to the

Indiana Child Support Guidelines became effective at the beginning of 2004. In late 2003, in anticipation of the Guideline changes, Marion County handed the application over to JTAC so that JTAC could facilitate the necessary updates and the collaborative effort that has led to the development of two additional tools and make the tools available for statewide use.

"We're grateful to Marion County for allowing us to take its innovative idea and try to make it even better," said Justice Frank Sullivan, Jr., chair of JTAC. "We're hopeful these calculators will be used all over Indiana."

To access the online child support calculators, visit [www.IN.gov/judiciary/childsupport](http://www.IN.gov/judiciary/childsupport).



## Judges/Prosecutors Receive Health Care Adjustment to Compensation

*On March 18, Governor Kernan signed House Enrolled Act 1401 which provides a “health care adjustment” to Indiana’s judges, magistrates, prosecutors, and deputy prosecutors paid with state funds. The health care adjustment is equal to pay increases received by all state employees authorized by the Governor to offset the increased employee contribution for health care benefits. For state employees, the Governor had authorized a \$1,092 increase for 2003 and an \$884 increase for 2004.*

Specifically, the new law provides that appellate justices and judges, trial court judges, magistrates, and prosecuting attorneys receive a \$1,092 lump sum payment (representing the health care adjustment for 2003), which was paid on May 5, 2004. In addition, \$1,976 (representing the cumulative health care adjustment paid in 2004) will be paid to them during the pay periods remaining in 2004. The \$1,976 increase will be paid during 2005 and subsequent years, along with amounts equal to any further health

care adjustments for state employees authorized by the Governor.

The increases are funded by a “judicial insurance adjustment fee” of \$1. The fee shall be collected in “each action filed in a court described in I.C. 33-19-1-1” (which includes circuit, superior, county, municipal, probate, and city and town courts), excluding criminal proceedings, and infraction and ordinance violation proceedings, and in each case in which a person is convicted of an offense, required to pay a pretrial diversion fee, found to

have violated an infraction, or found to have violated an ordinance.

The passage of HB 1401 represents the first adjustment for the state’s judicial officers and prosecutors since August 1, 1997, when the second phase of the 1995 judicial pay reform law was implemented, increasing the state-paid portion of trial court judges’ salaries from \$85,000 to \$90,000 per year, with commensurate increases to the salaries of prosecutors and appellate judges.

### Chief Justice Shepard is Selected as 2004 Recipient of Excellence in Service Award of the National Association of Women Judges (NAWJ)

*On May 17, the Chair of the National Association of Woman Judges (NAWJ), the Honorable Norma Shapiro, judge of the United States District Court of Eastern Pennsylvania, advised Chief Justice Shepard that he is this year’s recipient of the association’s **Excellence in Service Award**. The NAWJ cited Justice Shepard for his leadership in promoting equal opportunities for women and minorities in law practice and the judiciary, as well as his tremendous support and encouragement of NAWJ.*

Justice Shepard is in good company as he joins a list of prominent judicial leaders who have previously received awards from NAWJ. Among those recipients are U.S. Supreme Court Justices Ruth Bader Ginsburg, Sandra Day O’Connor and William Brennan. Indiana is the host of the 2004 annual NAWJ meeting which will take place October 7-9 in Indianapolis. Judge Margaret Robb of the Indiana Court of Appeals chairs the annual conference.

## Effort to Reduce Bias in Court System Moves Ahead

### Supreme Court Commission on Race & Gender Fairness

*An on-going effort to reduce prejudice based on race or gender is moving ahead following the supreme court's review of the project's initial series of recommendations, Chief Justice Randall T. Shepard announced in March.*

"The hard work and deliberation that led to the recommendations are quite evident. It is also plain that much work remains to be done in accurately documenting the status of race and gender fairness in the state's justice system and in reducing any barriers to full participation in the legal system, whether they are real or perceived," Chief Justice Shepard said.

The Supreme Court reviewed 29 recommendations presented by the Supreme Court's Commission on Race and Gender Fairness, which is led by former Justice Myra Selby and Indiana Court of Appeals Judge Ezra H. Friedlander.

Virtually all of the recommendations were either approved or already underway through related court projects. Completion of some of the recommendations will depend on funding and collaboration with other organizations.

But Chief Justice Shepard noted in the Supreme Court's response to the Commission's recommendations that "the [supreme court] has and continues to be committed to implement as many of the Commission's recommendations as possible."

#### *Court Interpreter Certification Program*

Already, the Supreme Court has approved the Commission's recommendation to implement a court interpreter program to ensure that qualified interpreters are used in trial courts.

Members of the first class of the court interpreter certification program have taken their oral proficiency exam. These 19 students attended a two-day orientation session, passed a written exam, and attended a

two-day skills-building session. Those who complete the program will be listed by the Division as certified interpreters.

#### *Race & Gender Bias Issues*

In addition, the supreme court supported recommendations that would increase training on race and gender bias issues for new attorneys and judges and potentially for prosecutors and public defenders. The Supreme Court also supported a recommendation to decrease instances of disrespect and incivility in the legal system. In regard to the makeup of the legal profession, the Supreme Court supported a number of recommendations that would encourage further diversity and that call for the collection of data about the profession's demographics.

#### *Criminal Justice Issues*

On the criminal justice issues, the Supreme Court supported further education efforts about the judicial system and the plan to create a framework to keep more detailed race and gender statistics in the criminal justice system as the state's new case management system is developed.

#### *Civil, Domestic and Family Law*

In the civil, domestic, and family law areas, the supreme court supported recommendations to increase victims' assistance programs and to collect more race and gender data in family law cases.

The supreme court has asked the Commission on Race and Gender Fairness to prioritize the recommendations and outline the order in which it would like to implement them.



## The Indiana Supreme Court Rule Amendment Process

*Pursuant to its constitutional authority and statutory provisions, the Indiana Supreme Court has promulgated several sets of rules which govern the practice and procedure in all cases tried in all Indiana courts as well as other matters such as admission and discipline of lawyers, a code of ethics for judges, and a code of professional responsibility for lawyers. The rules collectively are referred to as the Indiana Rules of Court, but they are comprised of 18 different subsets.*

Indiana and federal case law, as well as legislative enactments, regularly necessitate that those rules be amended. But also the dynamic nature of the practice of law, changing technologies, and an evolving society often require reevaluation and amendment to the rules. So how does one propose a change to a particular rule and, more importantly, keep abreast of all the rule changes?

**Proposing changes.** The Indiana Supreme Court receives and considers proposals for rule amendments from various sources. As might be expected, those who use the rules the most, attorneys and judges, are the ones that most frequently make proposals for changes. The proposed amendments often come from organized groups such as the Bar Association and/or its committees, the Indiana Judicial Conference committees, the Board of Law Examiners, the Commission on Continuing Legal Education, the Indiana Supreme Court Records Management Committee, and many others. However, clerks, the public, business and civic groups, and legislators often make proposals.

In the majority of instances, the court refers the proposals to its Supreme Court Committee on Rules of Practice and Procedure for in-depth review and input of public comment. The committee is created by a rule, Trial Rule 80, and is comprised of judges and lawyers expert in the different areas of practice, such as the civil plaintiff and defense bar, the appellate bar, and the criminal defense bar and prosecution.

Proposals for changes should most often be sent to the Rules Committee. Although the committee's charge speaks only of the rules of practice and procedure, in practice the Supreme Court has expanded the charge of the committee so that it often examines proposals in areas not traditionally considered procedural, such as the code of professional responsibility, rules of admission and discipline of attorneys, and administrative rules.

**Schedule for submitting rule amendments.** In an effort to streamline the rule amendment process, the Supreme Court has established in Trial Rule 80 a schedule

for when rule amendments should be proposed to the Rules Committee, published for public comment, and ultimately proposed to the Supreme Court for promulgation. The schedule is as follows:

**1. December 1 - Rules Committee Publishes its Recommendations for Public Comment.**

The Rules Committee receives proposals all year long, but it must make its recommendations not later than December 1 of each year. At that time, all recommended rule amendments are published for public comment. The Indiana Supreme Court Web Site at [www.in.gov/judiciary](http://www.in.gov/judiciary) is the best place to look for all proposed amendments.

**2. May 1 — Rules Committee Makes Recommendation to Supreme Court.**

After reviewing all the comments and deciding whether its proposals require further study or amendment, the Rules Committee makes its final recommendation to the Supreme Court and transmits all comments, verbatim, to the Court.

**3. July 1 — Supreme Court Acts.** During the months of May and June, the Supreme Court reviews the proposals submitted by the Rules Committee and by any other organization and adopts the new rule amendments by July 1.

**4. January 1 – Effective Date of New Rule Amendments.** The Supreme Court adheres to the foregoing schedule unless some special need exists that calls for deviation.

In summary, rule amendment proposals should be submitted to the Rules Committee several months in advance of the Committee's December 1 deadline for publication. Rule amendment proposals may be submitted to the Supreme Court directly with the caveat that the Court may refer them to the Rules Committee for processing through the rule amendment cycle established in Trial Rule 80.

The Indiana Supreme Court Web site at [www.in.gov/judiciary](http://www.in.gov/judiciary) is the best source of information for proposed rule amendments and new amendments. We encourage all interested parties to check the site regularly.

## Supreme Court Administrator Douglas Cressler Departs

**V**eteran Supreme Court Administrator Douglas E. Cressler resigned effective June 15, 2004, to take a new position as chief deputy clerk for the United States Court of Appeals for the Tenth Circuit in Denver, Colorado.

Cressler had been the Indiana Supreme Court Administrator for nine years and previously served as Deputy Court Administrator. He assumed his new position with the U.S. Court of Appeals on June 21.

"Doug has been a tremendous asset to the Court throughout his career here. His keen intellect, legal insight and attention to detail have been a great benefit to both the Court and the people of Indiana," said Chief Justice Randall T. Shepard.



Prior to joining the office of Supreme Court Administration, Cressler practiced law for three years with the Indianapolis law firm of Bingham McHale and also spent 10 years as a computer systems analyst at Methodist Hospital.

He has served as an adjunct professor at the Indiana University School of Law, Indianapolis, teaching courses in both appellate procedure and professional responsibility. He has lectured on a wide range of appellate issues and authored numerous law review articles.

## Monroe County Judge Praised for Quality of Decision

**T**he *Bloomington Herald-Times* praised the work of Monroe Circuit Court Judge Marc R. Kellams in an editorial published on May 15, 2004.

The editorial, entitled "Kellams' Decision a Silver Lining: Judge's Explanation of Ruling Shows Thoughtful, Reasoned Approach," lauded the trial court judge's four-page finding of probable cause to permit criminal charges to proceed against a Monroe County jail officer who faces charges after a jail inmate died after being shocked by a Taser while in custody.

The editorial noted that the judge's ruling "introduce[d] one positive element to this tragic episode, . . . [h]is four page written explanation of his

determination in the case offers a rare glimpse into the thoughtful, considered, sometimes wrenching judicial decision-making process."

The editorial concluded that, "Kellams' thoughtfulness, thoroughness and reasoning in this case were exemplary, and that is a silver lining in an otherwise dark cloud over the county."

Judge Kellams assumed the bench in the Monroe Circuit Court in 1981. He also serves as the President of the Indiana Judges Association.

## Indiana Supreme Court Distributes Court Interpreter Grants

*In 2003, the Indiana General Assembly appropriated approximately \$100,000 for each year of the biennium to be used as grants for the trial courts to enhance court interpreter services.*

During the first fiscal year, 28 counties applied for and received about \$130,000 in interpreter grants. Grant amounts depended on demonstrated financial need, the number of persons served by the grant, and the potential improvement in court interpreter services to litigants in the applying county. Another \$100,000 will be available in grant funds during the 2004-2005 fiscal year.

Beyond providing immediate financial assistance, the Supreme Court's goal is to document the need for court interpreter funding and the impact that qualified interpreters have on the fairness and efficiency of the justice system. Courts receiving these grants are required to complete a report at the end of the fiscal year. The report calls for information on the number of hours

of interpreter service provided in the previous fiscal year, the number of cases that used these services, the types of cases using these services, the qualifications of the interpreters used, and methods employed to streamline the costs associated with interpreting services.

To seek continued state funding for this effort, the Supreme Court will need to demonstrate to the General Assembly that qualified court interpretation is not only a fairness issue but also an efficiency item during difficult economic times. The 2004-2005 interpreter grant applications will be available in July. You may find an application at <http://www.in.gov/judiciary/interpreter/>.

Contact Anthony Zapata, staff attorney, at [azapata@courts.state.in.us](mailto:azapata@courts.state.in.us), if you have any questions regarding this opportunity.

### Ask Jack

*(Each issue, Jack Stark, Director of Trial Court Services, will answer reader questions concerning matters of court administration or general reader interest. Should no interesting questions be presented, Jack will make up a question and answer it! Anyone with a question is invited to send it to Jack Stark, Division of State Court Administration, 115 West Washington Street, Suite 1080, Indianapolis, Indiana 46204, or e-mail it to [jstark@courts.state.in.us](mailto:jstark@courts.state.in.us).)*

**Question:** Are there any new filing fees that will need to be collected upon the filing of civil and small claims cases during 2004?

**Answer:** We are aware of two new fees. First, new Indiana Code Section 33-37-5-25, effective July 1, 2004, provides for collection of a "judicial insurance adjustment fee" of \$1 in all civil and small claims cases and all criminal, ordinance, and infraction cases whereby there is a conviction or finding of a violation or where the defendant is required to pay a pretrial diversion fee. The fees collected are to be deposited into

the judicial branch insurance adjustment account in order to fund the provision of much-needed insurance adjustment payments to specified employees of the judiciary.

Also, IC 33-19-6-19.3, effective July 1, 2004, creates a "judicial administration fee" of \$1 to be collected in all civil and small claims cases, and in all criminal, ordinance, and infraction cases whereby there is a conviction or finding of a violation or where the defendant is required to pay a pretrial diversion fee. Beginning June 30, 2005, that fee will increase to \$2.

## First Case to Be Heard By Private Judge

*The parties in a civil case filed in the Madison County have opted to have their case heard by a private judge, former Hamilton Superior Court Judge Jerry Barr. The parties were the first to take advantage of a long-standing Indiana law that allows parties to agree to have their cases heard by private judges.*

The Indiana Legislature has provided by statute that, in certain circumstances, litigants can agree to try certain civil cases before a private judge who is compensated by the litigants. In order for a case to qualify for private judge adjudication, it must be founded in tort, contract or a combination of the two. The private judge selected to hear the case must be a former trial court judge who has been approved by the Division of State Court Administration to serve as a private judge, must be a resident of the State of Indiana, must be a member of the Indiana bar, and must have had monetary jurisdiction and subject matter jurisdiction over cases similar to the one for which he or she is requested to serve as a private judge.

In order to use this statute, parties must file their case in a court. If the case qualifies for a private judge, the parties may then submit to the Executive Director a written petition requesting a private judge and identifying the chosen judge. The Executive Director verifies that the requested judge is qualified and forwards the petition to the selected private judge.

The parties next obtain the written consent of the private judge. Upon obtaining the consent, the parties file the written consent and the petition for private judge in the court where the case is filed. The parties may present the petition and consent either contemporaneously with the filing of the case in the trial court or after the case has been filed. The regular judge of the court in which the case is filed actually appoints the private judge after all of the above requirements are met. Following are the statutory provisions for trials before private judges:

- All trials conducted by a private judge shall be conducted without a jury.
- A person serving as a private judge has, for each case that he or she hears, the same powers as the judge

of a circuit court in relation to court procedure, deciding the outcome of a case, attendance of witnesses, punishment of contempt, enforcement of orders, administering of oaths, and giving all necessary certificates for the authentication of the records and proceedings.

- All proceedings shall be of record, which shall be filed with the Clerk of the Circuit Court in the county of proper venue and made available to the public in the same manner as circuit court records.
- The Indiana Rules of Trial Procedure apply to all actions, and appeals may be taken in the same manner as an appeal from the circuit court.
- Costs shall be taxed and distributed in the same manner as a case brought in a circuit court.
- The Clerk of the Circuit Court shall serve as the clerk of court for the case and the sheriff shall serve as the sheriff of the court for the case. They shall attend the proceedings and perform the same duties relating to their offices as they are required to do for the circuit court of the county in which the case is filed.
- The Clerk of the Circuit Court shall provide to a private judge all the necessary books, dockets, papers, and printed blanks necessary to discharge the duties of the court.

A private judge is paid pursuant to an arrangement agreed to by the judge and the parties to the case. In addition, the contract must include terms for compensation of all personnel and the costs of facilities and materials as determined by the Clerk of the Circuit Court.

For more information about private judges, see the Indiana Supreme Court Division of State Court Administration's website at: <http://www.in.gov/judiciary/> or the Indiana Code 33-13-15 *et seq.*



## Federal Grant Funds Help Develop Centralized Jury Pool Repository

***In March 2003, the Indiana Criminal Justice Institute awarded \$92,000 of federal Byrne Grant funds to the Division of State Court Administration for a collaborative project between JTAC and the Jury Committee of the Indiana Judicial Conference to develop a central repository of jury pool information for all 92 Indiana counties. The grant award is for a 75% match with the remaining 25% (\$30,667.67) being contributed by the recipients, for a total project cost of \$122,667.67.***

These funds will be used to develop an electronic system that will merge voter registration records with records from other sources, such as the Bureau of Motor Vehicles and the Department of Revenue, and purge duplicate records. The goal of the project is to provide Indiana trial courts with a streamlined and centralized source of jury pool information in order to expand and diversify the pool of potential jurors and facilitate compliance with the new Indiana Jury Rules.

The Indiana Jury Rules, which became effective on January 1, 2003, require that trial courts use the county's roster of registered voters and at least one other source

for drawing potential jurors. Through its work in helping the implementation of the Jury Rules, the Jury Committee collaborated with many entities that maintain records that can be used as supplemental data for jury pools. A centralized system will decrease administrative work and reduce costs for trial courts to comply with expanded jury pool requirements. In addition, this system will also aid the entities that provide the necessary information since the data will be transmitted to a central repository only, instead of to 92 counties. For more information, contact Michelle Goodman, Staff Attorney, Indiana Judicial Center.

## New Law Makes Supreme Court Clerk's Post an Appointed Position

***Senate Enrolled Act 72 puts selection of the Clerk of the Supreme Court of Indiana, the Court of Appeals, and the Tax Court into the hands of the Supreme Court.***

David C. Lewis, the current Clerk, noted, "[The act] will provide greater accountability and greater efficiency in the services the Clerk's office provides to the judiciary, the legal community, and the public." With the enactment of the new law, Indiana joins 48 other states with an appointed clerk of courts.

According to the bill, which passed unanimously in the House and Senate, Lewis will complete his current term of office. He was appointed by Governor Kernan in November 2003 to fill a vacancy created by Brian Bishop's resignation. Lewis's term will end on January 1, 2007. At that time, or upon Lewis's

resignation, the next Clerk of Court will be named by the Chief Justice of the Supreme Court of Indiana.

"Changing this position from elected to appointed is an example of good government. While the Clerk of Courts office is vital to the functioning of the appellate courts, the Clerk is an administrative position with no policymaking authority. It is appropriate for the Supreme Court to have the power to employ the clerk of its choosing, without reference to politics and without the uncertainty presented by the election of a clerk every four years," Lewis said.

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Our goal is to foster communications, respond to concerns, and contribute to the spirit and pride that encompasses the work of all members of the judiciary around the state. We welcome your comments, suggestions and news. If you have an article, advertisement, announcement, or particular issue you would like to see in our publication, please contact us.

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**This newsletter reports on important administrative matters. Please keep for future reference.**

## *Indiana Court Times*

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